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12 Attorneys for Plaintiffs

13 UNITED STATES DISTRICT COURT  
14  
15 NORTHERN DISTRICT OF CALIFORNIA

16 BOARD OF TRUSTEES OF THE  
17 LABORERS HEALTH AND WELFARE  
18 TRUST FUND FOR NORTHERN  
19 CALIFORNIA; BOARD OF TRUSTEES OF  
20 THE LABORERS VACATION-HOLIDAY  
21 TRUST FUND FOR NORTHERN  
22 CALIFORNIA; BOARD OF TRUSTEES OF THE  
23 LABORERS PENSION TRUST FUND  
24 FOR NORTHERN CALIFORNIA; and  
25 BOARD OF TRUSTEES OF THE  
26 LABORERS TRAINING AND RETRAINING  
27 TRUST FUND FOR NORTHERN  
28 CALIFORNIA,

Plaintiffs,

vs.

MURRAY STEVEN WEBER, dba WEBER  
TRACTOR SERVICE,

Defendant.

BOARD OF TRUSTEES OF THE CEMENT  
MASONS HEALTH AND WELFARE TRUST  
FUND FOR NORTHERN CALIFORNIA;  
BOARD OF TRUSTEES OF THE CEMENT  
MASONS VACATION-HOLIDAY TRUST  
FUND FOR NORTHERN CALIFORNIA;  
BOARD OF TRUSTEES OF THE CEMENT  
MASONS PENSION TRUST FUND FOR  
NORTHERN CALIFORNIA; AND BOARD  
OF TRUSTEES OF THE CEMENT MASONS  
TRAINING TRUST FUND FOR NORTHERN  
CALIFORNIA,

Plaintiffs,

Case No.: CV 12-02038 EMC and C12-2039 EMC

**CASE MANAGEMENT STATEMENT;  
ORDER THEREON  
ORDER RESETTING CMC TO 11/30/12**

Date: October 26, 2012  
Time: 9:00 a.m.  
Ctroom: 5, 17<sup>th</sup> Floor  
Hon. Edward M. Chen

Case No.: CV 12-02039 EMC

Plaintiffs hereby provide this abbreviated case management conference statement.

7 Plaintiffs and Defendant, in both consolidated cases, reached a settlement of this action.  
8 The parties have finalized the settlement documents. It was anticipated that by August 30, 212,  
9 Defendants would have complied with the fully executed settlement agreement and this case  
10 would be dismissed. However, Defendants requested two extra weeks to comply with the fully  
11 executed settlement documents. Plaintiffs granted the request since the settlement agreement  
was fully executed.

Pursuant to the settlement agreement, defendants were to make monthly installment payments. Upon receipt of the first installment payment, Plaintiffs would dismiss this case without prejudice. Upon receipt of the final installment payment, Plaintiffs would dismiss this case with prejudice. Even after providing Defendants with a further extension of time, Defendants failed to make any installment payment and are in default of the settlement agreement.

19 Plaintiffs advised defendants that they are in default of the settlement agreement.  
20 Defendants were given ten (10) days to cure the default, pursuant to the terms of the settlement  
agreement. Defendants failed to cure the default.

22 The settlement agreement also contains a stipulation for entry of judgment should  
23 defendants be in default and fail to cure the default. Plaintiffs will file a motion for entry of  
judgment within the next 30 days. This case will not proceed to litigation.

25      // /  
26      // /  
27      // /  
28      // /

1       Based on the above, Plaintiffs respectfully request that this Court continue the October  
2 26, 2012 Case Management Conference for approximately thirty days.

3 || DATED: October 17, 2012

## BULLIVANT Houser Bailey PC

By Ronald L. Richman  
Susan J. Olson

Attorneys for Plaintiffs

## ORDER

11 Pursuant to the Plaintiffs' request to continue the case management conference and good  
12 cause appearing:

13 IT IS HEREBY ORDERED that the October 26, 2012 case management conference be  
14 continued to November 30, 2012 at 9:00 a.m., Courtroom 5, 17<sup>th</sup> floor. If the motion for  
15 entry of judgment is filed before the new date set for the case management conference, the case  
16 management conference will be vacated.

17 DATED: October 23, 2012

By

HON.

JUDGE

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

IT IS SO ORDERED

*Edward M. Chen*

Judge Edward M. Chen

## PROOF OF SERVICE

I am employed in the City and County of San Francisco by the law firm of Bullivant Houser Bailey, PC ("the business"), 601 California Street, Suite 1800, San Francisco, CA 94108. I am over the age of 18 and not a party to this action. On October 17, 2012, I served the document(s) entitled:

## **CASE MANAGEMENT STATEMENT; ORDER THEREON**

upon the following party(ies):

MURRAY STEVEN WEBER  
dba WEBER TRACTOR SERVICE  
867 2<sup>nd</sup> Avenue, Suite e  
Redwood City, CA 94063

13  BY E-MAIL VIA PDF FILE: By transmitting on this date via e-mail a true and correct  
14 copy scanned into an electronic file Adobe "pdf" format. The transmission was reported  
as complete and without error.

15  BY MAIL (CCP § 1013(a)): I am readily familiar with the ordinary practice of the  
16 business with respect to the collection and processing of correspondence for mailing  
17 with the United States Postal Service. I placed a true and correct copy(ies) of the above-  
18 titled document(s) in an envelope(s) addressed as above, with first class postage thereon  
19 fully prepaid. I sealed the aforesaid envelope(s) and placed it(the) for collection and  
mailing by the United States Postal Service in accordance with the ordinary practice of  
the business. Correspondence so placed is ordinarily deposited by the business with the  
United States Postal Service on the same day.

20  BY FACSIMILE TRANSMISSION (CCP § 1013(e), CRC 2008(e)): I transmitted the  
21 document(s) by facsimile transmission by placing it(the) in a facsimile machine  
22 (telephone number 415-352-2701) and transmitting it(the) to the facsimile machine  
23 telephone number(s) listed above. A transmission report was properly issued by the  
transmitting facsimile machine. Each transmission was reported as complete and  
without error. A true and correct copy of the transmission report is attached hereto.

24  BY OVERNIGHT DELIVERY (CCP § 1013(c)): I am readily familiar with the  
25 ordinary practice of the business with respect to the collection and processing of  
26 correspondence for mailing by Express Mail and other carriers providing for overnight  
27 delivery. I placed a true and correct copy(ies) of the above-titled document(s) in an  
envelope(s) addressed as above, with first class postage thereon fully prepaid. I sealed  
28 the aforesaid envelope(s) and placed it(the) for collection and mailing by Express Mail  
or other carrier for overnight delivery in accordance with the ordinary practice of the  
business. Correspondence so placed is ordinarily deposited by the business with Express  
Mail or other carrier on the same day.

1  BY PERSONAL SERVICE UPON AN ATTORNEY (CCP § 1011(a)): I placed a true  
2 and correct copy(ies) of the above-titled document(s) in a sealed envelope(s) addressed  
3 as indicated above. I delivered each of said envelope(s) by hand to a receptionist or a  
4 person authorized to accept same at the address on the envelope, or, if no person was  
5 present, by leaving the envelope in a conspicuous place in the office between the hours  
6 of nine in the morning and five in the afternoon.

7  BY PERSONAL SERVICE UPON A PARTY (CCP § 1011(b)): I placed a true and  
8 correct copy(ies) of the above-titled document(s) in a sealed envelope(s) addressed as  
9 indicated above. I delivered each of said envelope(s) by hand to a person of not less  
10 than 18 years of age at the address listed on the envelope, between the hours of eight in  
11 the morning and six in the evening.

12 I declare under penalty of perjury that the foregoing is true and correct. Executed on  
13 October 17, 2012, at San Francisco, California.



14 Terry S. Bremer

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